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REMARKS

Summary of Amendments Made

Claim 5 has been amended to delete the present of the optional emulsifier. Support for the amendment to claims 16 and 17 can be found, e.g., by Examples 1 and 5, respectively. Support for new claim 20 can be found e.g. in Examples 1-7 (pages 33-38) in the specification.

Claims 5, 7-11 and 16-20 are now pending. It is believed that no new matter has been added.

Prior Art rejections

- (1) Claims 5 and 7-11 were rejected as being anticipated by Thomas et al. (U.S. Patent 5,810,130 - hereafter "Thomas").
- (2) Claims 16 and 17 were rejected as being obvious over Thomas in view of Moore et al. (U.S. Patent 6,063,746 - hereafter "Moore").
- (3) Claims 18 and 19 were rejected as being obvious over Thomas and Moore further in view of Klier et al. (U.S. Patent 4,127,672 - hereafter "Klier"). The applicants previously conceded that for the applicants claimed invention these claims stand or fall with the rejection of claims 16 and 17.

While not believed to be necessary, with the deletion of the optional ingredient, it is believed that the applicants claims are even further removed from the teachings of Thomas. MPEP 2131 states that "A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) - see also *In re Arkley*, 455 F.2d 586, 587, 172 USPQ 524, 526 (CCPA 1972) - ("...[the prior art reference] must clearly and unequivocally disclose the claimed compound or direct those skilled in the art to the compound without *any* need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the cited reference."

The microemulsion of Thomas require the presence of at least three emulsifiers, i.e. an anionic surfactant, an ethoxylated glycerol-based nonionic surfactant and a water-soluble co-surfactant having substantially no ability to dissolve oily or greasy soil. Even if the term "consisting essentially of" was viewed to be equivalent to "comprising" by the Examiner, there is no teaching or suggestion from within the applicants' specification (including the examples and originally filed claims) which suggests the inclusion of an anionic surfactant as taught by Thomas. Likewise, there is nothing within the teachings of

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Thomas which suggests that any of their three surfactants can be removed or that directs one of ordinary skill in the art to the specific combination of surfactants represented by amended claims 16 and 17.

Closing

Applicants also believe that this application is in condition for allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Respectfully submitted,
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Preliminary Amendment (5 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: 25 October 2004

By: Agata Glincka
Agata Glincka